

BEFORE THE PERSONNEL APPEALS BOARD

STATE OF WASHINGTON

SANDRA J. OBERG (LEWIS),)	Case Nos. RED-97-0052
)	SUSP-98-0033
Appellant,)	DISM-98-0055
)	
v.)	FINDINGS OF FACT, CONCLUSIONS OF
)	LAW AND ORDER OF THE BOARD
DEPARTMENT OF REVENUE,)	
)	
Respondent.)	

I. INTRODUCTION

1.1 **Hearing.** These appeals came on for a consolidated hearing before the Personnel Appeals Board, WALTER T. HUBBARD, Chair, and GERALD L. MORGEN, Vice Chair. The hearing was held at the Spokane Ramada Inn, Conference Room 100, Spokane, Washington, on September 21 and 22, 1999. NATHAN S. FORD, Member, did not participate in the hearing or in the decision in this matter.

1.2 **Appearances.** Appellant Sandra J. Oberg (Lewis) was present and was represented by Mark S. Lyon, General Counsel for the Washington Public Employees Association. Respondent Department of Revenue was represented by Elizabeth Delay Brown, Assistant Attorney General.

1.3 **Nature of Appeals.** These are appeals from three separate disciplinary sanctions: a reduction in salary, a suspension, and dismissal. Appellant's salary was reduced for neglect of duty, gross misconduct, and willful violation of the published employing agency or department of

1 personnel rules and regulations for 1) failing to balance her cash drawer and transmit funds in a
2 timely manner and 2) failing to void a cash receipt. Appellant was suspended for three days for
3 neglect of duty, insubordination, gross misconduct and willful violation of the published employing
4 agency or department of personnel rules and regulations for failing to balance her cash drawer and
5 failing to turn in the cash and documents to the designated Tax Service Representative. Appellant
6 was dismissed for neglect of duty, inefficiency, gross misconduct, and willful violation of the
7 published employing agency or department of personnel rules or regulations for skipping a cash
8 receipt in her assigned receipt book.

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11 1.4 **Citations Discussed.** WAC 358-30-170; Baker v. Dep't of Corrections, PAB No. D82-084
12 (1983); McCurdy v. Dep't of Social & Health Services, PAB No. D86-119 (1987); Anane v.
13 Human Rights Commission, PAB No. D94-022 (1995), *appeal dismissed*, 95-2-04019-2 (Thurston
14 Co. Super. Ct. Jan. 10, 1997); Countryman v. Dep't of Social & Health Services, PAB No. D94-025
15 (1995); Rainwater v. School for the Deaf, PAB No. D89-004 (1989); Skaalheim v. Dep't of Social
16 & Health Services, PAB No. D93-053 (1994);

17 18 19 **II. FINDINGS OF FACT**

20 2.1 Appellant Sandra Oberg (Lewis) was a Tax Service Representative 1 and permanent
21 employee for Respondent Department of Revenue. Appellant and Respondent are subject to
22 Chapters 41.06 and 41.64 RCW and the rules promulgated thereunder, Titles 356 and 358 WAC.
23 Appellant filed timely appeals with the Personnel Appeals Board. Her appeal of the reduction in
24 salary, PAB Case No. RED-97-0052, was filed on September 29, 1997. The appeal of her
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1 suspension, PAB Case No. SUSP-98-0033, was filed on September 2, 1998. The appeal of her
2 dismissal, PAB Case No. DISM-98-0055, was filed on October 16, 1998.

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4 2.2 Appellant began her employment with the Department of Revenue's Spokane office in 1987.
5 Beginning in 1994, Appellant worked as a Tax Service Representative (TSR) in the Bankruptcy
6 Unit until her position was eliminated and she was transferred to the Compliance Unit in
7 approximately June 1996.

8
9 2.3 Appellant's position in the Compliance Unit resulted in a change in her job responsibilities.
10 Her duties included assisting taxpayers, over the phone or at the front counter, by answering
11 questions and preparing forms, receiving and receipting tax monies and payments for new master
12 business applications, and processing the monies received and preparing transmittals in preparation
13 for deposit of monies. Appellant was assigned two cash receipt books, a DOR (Department of
14 Revenue) cash receipt book used to document cash payments from taxpayers and a UBI (unified
15 business identifier) cash receipt book used for Master Business Application fees.
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18 2.4 In July 1996, shortly after Appellant's arrival to the Compliance Unit, Brian Moran became
19 the District Compliance Manager for the Spokane office. Mr. Moran became Appellant's new
20 supervisor.
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23 2.5 The department's Field Compliance Manual requires that a receipt be completed for all cash
24 payments. The receipt must be legible, error free and cannot be changed or modified. If a receipt
25 contains an error, the word "void" is written in large letters across the front of the receipt and all
26 copies. A new receipt must be completed. In addition, at the end of each work day, each TSR is

1 responsible for balancing his/her cash drawer to ensure that cash on hand equals receipts and
2 documents for the day's collections. The day's transactions are documented on a transmittal form
3 and prepared for deposit. Appellant was aware of these operating procedures.

4
5 2.6 Mr. Moran noted deficiencies in Appellant's work performance, including errors in her
6 receipts, and by memo dated September 11, 1996, Mr. Moran placed Appellant on a work plan
7 which identified areas for improvement in Appellant's job performance. The plan was effective
8 September 11, 1996 through March 11, 1997 and, in part, addressed Appellant's work accuracy and
9 directed her to "proof and read all typing assignments, including but not limited to transmittal (cash
10 and UBI) and warrants, to eliminate typing errors." Mr. Moran also directed Appellant to
11 communicate directly with him on office related issues.
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13
14 2.7 Beginning November 1996 Appellant was on an approved leave of absence. Appellant
15 returned to work in April 1997.
16

17 2.8 After her return from leave, Mr. Moran provided Appellant with a one-on-one training
18 session which included a review of the department's Field Compliance Manual on completing cash
19 receipts and transmittal forms.
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21 2.9 Mr. Moran directed Appellant to notify him immediately of any work errors made during
22 the course of her duties.
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25 **REDUCTION IN SALARY**

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1 2.10 On June 19, 1997, Appellant received \$20 in cash for a UBI transaction, however, Appellant
2 failed to balance her cash drawer at the end of the day and the money remained in the cash drawer.
3 Appellant did not access her cash drawer again until June 25, 1997 when she discovered the \$20.
4 Appellant informed her lead worker, Nancy Norberg, about her discovery of the \$20 and her failure
5 to balance her cash drawer. At Ms. Norberg's direction, Appellant included the \$20 in that day's
6 transmittal form. Appellant did not directly inform Mr. Moran about the incident.
7

8 2.11 On July 21, 1997, Appellant received \$20 in cash for a UBI transaction. Appellant
9 completed a UBI receipt for the customer, however, Appellant failed to separate receipt numbers
10 118476 and 118477. As Appellant completed receipt number 118476 her writing copied through
11 the carbon copies of both receipts numbered 118476 and 118477. Appellant gave the customer the
12 original of receipt number 118476.
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15 2.12 The receipt book containing the yellow copies of receipts shows that the carbon copy of
16 receipt number 118476 has the word "voided" written on it in black ink. On the back of the receipt,
17 Appellant wrote: "white copy preseeded (sic) this was receipt 118477. I gave that to taxpayer.
18 Behind this receipt was the actual yellow copy of 118477, so I wrote voided across the 118476
19 receipt." The original copy of the receipt number 118477 was torn from the receipt book, however,
20 it was never located.
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23 2.13 By memo dated June 25, 1997, Mr. Moran established a second work plan which outlined
24 his expectations of Appellant's job performance. The plan was effective June 25 through
25 September 25, 1997. The plan again directed Appellant to check the accuracy of her work product.
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1 2.14 By letter dated September 22, 1997, Roger Dodd, Assistant Director of the Compliance
2 Division, informed Appellant of her two-step reduction in salary effective October 13, 1997 through
3 October 17, 1997. Mr. Dodd charged Appellant with neglect of duty, gross misconduct and willful
4 violation of the published employing agency or department of personnel rules or regulations
5 resulting from her failure to balance her cash drawer and transmit funds on June 19, 1997, and her
6 failure to void a cash receipt on July 21, 1997.
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9 2.15 Roger Dodd was Appellant's appointing authority when he reduced Appellant's salary for
10 the June 19, 1997 and July 21, 1997 incidents. Mr. Dodd found Appellant failed to balance her cash
11 drawer and properly transmit funds on June 19, 1997, causing a six-day delay in the money being
12 appropriately deposited. Mr. Dodd determined that Appellant failed to perform an essential task of
13 her job when she did not balance her cash drawer on June 19, 1997 and the money remained
14 unaccounted for contrary to policy. Mr. Dodd was also concerned that Appellant, who was aware
15 of her responsibility to directly inform Mr. Moran of work errors, failed to directly notify him of
16 this incident.
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19 2.16 Regarding the July 21, 1997, incident Mr. Dodd found Appellant failed to void a cash
20 receipt according to department's procedure and again failed to notify her supervisor of her error.
21 Mr. Dodd did not believe that the explanation Appellant provided on the back of the carbon copy of
22 the receipt was plausible. Mr. Dodd concluded that Appellant, despite training and counseling, did
23 not understand the severity of her errors. Mr. Dodd wanted to impress upon Appellant the
24 seriousness of her actions and the importance of her cash handling responsibilities. He determined
25 that a five-day reduction in salary was the appropriate sanction.
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2 **SUSPENSION**

3 2.17 On January 29, 1998, Mr. Moran established a third work plan, effective January 29 through
4 April 28, 1998, which directed Appellant, in part, to complete cash receipts accurately, to submit
5 them on the daily transmittal form and to immediately inform Mr. Moran, or other designated
6 person, of any cash issues or irregularities.
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8
9 2.18 On February 24, 1998, Mr. Moran provided Appellant with a written report of Appellant's
10 progress toward meeting the directives of the January 29 work plan. Mr. Moran noted that
11 Appellant's handling of cash and cash receipts still required improvement. Mr. Moran advised
12 Appellant that she had completed cash transmittals accurately and in accordance with the
13 department's manual and that her progress in this area was good.
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15 2.19 On March 6, 1998, Appellant received a letter of reprimand for her failure to follow
16 established receipt procedures on two incidents dating back to June 27, 1997 and October 1, 1997,
17 when she made errors on two separate receipts and then attempted to correct the errors by writing
18 over them. These errors were discovered by Mr. Moran during a review of Appellant's receipt
19 book and were verified during an internal audit conducted at his request.
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22 2.20 On March 30, 1998, Mr. Moran provided Appellant with a second written report of her
23 progress toward meeting the directives of the January 29 work plan. In the area of cash and cash
24 receipts, Mr. Moran commented that Appellant had made improvements but that progress was still
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1 needed. Mr. Moran indicated that Appellant's cash transmittals were completely accurate and
2 completed according to policy and that her progress was good.

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4 2.21 On May 5, 1998, Moran provided Appellant with a "Final Work Plan Written Review"
5 which addressed her overall work performance progress towards meeting the January 29 work plan.
6 Mr. Moran's memo specifically addressed Appellant's performance beginning January 29, 1998
7 through April 28, 1998. Mr. Moran indicated that Appellant's cash and cash receipt error rate,
8 which was 23 percent when the plan was established, decreased to 13 percent. However, Mr.
9 Moran indicated that Appellant still required improvement in this area. He further stated that the
10 progress Appellant made in her cash transmittals was acceptable. Mr. Moran advised Appellant
11 that she met the overall work plan expectations although he was still concerned with her
12 performance in the areas of cash handling, her writing of cash receipts and the associated duties
13 with cash handling.
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16 2.22 On May 8, 1998, Appellant had a scheduled afternoon dental appointment. Appellant
17 expected to return to the office prior to 5 p.m. and she did not balance her cash drawer prior to
18 leaving. However, Appellant's appointment went later than anticipated and Appellant did not
19 return to the office. At the close of that business day, TSR staff discovered that there were cash
20 receipts written by Appellant. Staff attempted to reach Appellant at her home but were unable to do
21 so. Mr. Moran was called at his home and returned to the office. Mr. Moran discovered that
22 Appellant's cash drawer contained money from an earlier transaction that day. Mr. Moran
23 remained in the office and balanced Appellant's drawer. Neither Mr. Moran nor the other staff
24 present in the office received a call from Appellant during the time they were in the office past 5
25 p.m. Appellant did not leave Mr. Moran a message stating her reason for not returning to work.
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1 2.23 On May 18, 1998, Appellant received a letter of reprimand as a result of a \$20 cash shortage
2 in her assigned cash drawer dating back to March 20, 1998. The letter of reprimand warned
3 Appellant that continued errors could lead to further disciplinary action up to and including
4 dismissal.
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7 2.24 On June 25, 1998, Gerald McInturff, an Internal Auditor of the department, conducted an
8 audit of the Spokane office's cash receipts. During the course of his audit, Mr. McInturff
9 discovered that Appellant's receipt book had a skipped receipt which had not been voided.
10 Appellant skipped the receipt sometime between April 28 and May 15, 1998. Mr. McInturff
11 informed Mr. Moran on June 25 of the skipped receipt.
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14 2.25 On June 30, 1998, Mr. Moran met with Appellant and her union representative to discuss
15 the issue of the skipped receipt in Appellant's receipt book. Mr. Moran also informed Roger Dodd,
16 Assistant Director, of Mr. McInturff's discovery.
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18 2.26 On July 15, 1998, William N. Rice, Deputy Director, met with Appellant to give her an
19 opportunity to respond to charges stemming from the May 8, 1997 incident in which Appellant
20 failed to return to work and failed to balance her cash drawer. Mr. Rice was aware of the incident
21 in which Appellant skipped a receipt between the time period of April 28, 1998 and May 15, 1998,
22 however, he chose not to incorporate the incident with the impending action related to the
23 May 8, 1998 incident.
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1 2.27 As a result of the May 8 incident, Mr. Rice, by letter dated August 3, 1998, informed
2 Appellant that she was suspended for a period of three days. Mr. Rice charged Appellant with
3 neglect of duty, insubordination, gross misconduct, and willful violation of published employing
4 agency or department of personnel rules or regulations for her failure to balance her cash drawer
5 before leaving for the remainder of the day on May 8, 1998. Mr. Rice warned Appellant that “any
6 future instances of misconduct of any kind may result in disciplinary action being taken against
7 you, up to and including dismissal.”
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9 2.28 William Rice, Deputy Director, was Appellant’s appointing authority when he imposed the
10 suspension action on Appellant. When considering taking disciplinary action against Appellant
11 regarding her May 8 failure to balance her cash drawer prior to leaving for the remainder of the day,
12 Mr. Rice reviewed Appellant’s history with the department, the guidelines of her established work
13 plan, and the training and counseling provided to her by Mr. Moran. Mr. Rice concluded that
14 Appellant failed to follow established work procedures, performed her duties in a neglectful and
15 careless manner, and failed to understand the seriousness of her actions. Mr. Rice was also highly
16 concerned that Appellant’s actions undermined the ability of the agency to ensure the integrity of
17 public funds. Mr. Rice determined that a three-day suspension was the appropriate sanction.
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1 **DISMISSAL**

2 2.29 As a result of the June 25, 1998, discovery by Mr. McInturff of the skipped receipt, Mr.
3 Rice, by letter dated September 25, 1998, informed Appellant of her dismissal effective October 16,
4 1998. Mr. Rice charged Appellant with neglect of duty, inefficiency, gross misconduct, and willful
5 violation of published employing agency or department of personnel rules or regulations.
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7
8 2.30 When considering taking disciplinary action against Appellant regarding the receipt
9 Appellant skipped sometime between April 28, 1998 and May 15, 1998, Mr. Rice again weighed
10 Appellant's history with the department, her pattern of recurring work error problems and the
11 impact to the agency's ability to meet its mission of ensuring the integrity of public funds. Mr.
12 Rice concluded that despite training, counseling, two letters of reprimand, a reduction in pay, and a
13 suspension, Appellant failed to improve her performance and take accountability for her actions.
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16 2.31 Mr. Rice concluded that Appellant was neglectful and careless in performing her duties and
17 that she again interfered with the agency's ability to ensure the integrity of public funds. Mr. Rice
18 believed that Appellant failed to take accountability for her actions and failed to acknowledge that a
19 problem existed. Mr. Rice was again concerned that this was another incident which appellant
20 failed to bring to the attention of her supervisor. Mr. Rice ultimately determined that terminating
21 Appellant's employment was the appropriate sanction.
22

23 2.32 Although Mr. Rice had been made aware of the skipped receipt incident at some point after
24 June 25, 1998 but prior to the July 15 pre-disciplinary meeting which resulted in Appellant's
25 suspension, he did not believe that it would have been fair to Appellant to address the issue then.
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1 Mr. Rice did not believe that Appellant would have had an adequate opportunity to address the
2 allegation. Mr. Rice also did not want to delay reaching a decision regarding the May 8, 1998
3 incident.

4
5 2.33 Appellant continued to perform the duties of her position as a Tax Service Representative,
6 including cash handling and receipting tasks until she was dismissed. There were no noted
7 performance deficiencies with Appellant's work from May 16 to the date of her dismissal.

8
9 2.34 Appellant's performance history indicates that she met or exceeded normal requirements in
10 all performance dimensions for the evaluation period of November 1994 through November 1995.
11 Appellant's performance evaluation for the period between November 1995 through November
12 1996 indicates that Appellant met minimum requirements in the performance dimensions of
13 Accomplishment of Job Requirements and Job Reliability. Appellant met normal requirements in
14 the performance dimensions of Job Knowledge and Competence, Personal Relations, and
15 Communication Skills.
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18 2.35 Appellant's performance evaluation for the period of November 1996 through November
19 1997 rated her as fails to meet minimum requirements in the performance dimensions of
20 Accomplishment of Job Requirements and Job Reliability; meets minimum requirements in the
21 performance dimension of Job Knowledge and Competence; and meets normal requirements in the
22 performance dimensions of Personal Relations and Communication Skills.
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24 25 **III. ARGUMENTS OF THE PARTIES** 26

1 3.1 Respondent asserts that the primary mission of the Department of Revenue is to ensure the
2 integrity of public funds and that Appellant's continued errors impeded the department's ability to
3 carry out this mission. Respondent argues that Appellant was given job expectations, guidance and
4 training in the performance of her duties and responsibilities and that she failed to fulfill
5 expectations of her Tax Service Representative position. Respondent argues that Mr. Moran
6 provided Appellant with the appropriate counseling and guidance and met with her on numerous
7 occasions in an effort to help Appellant adequately improve her performance. However,
8 Respondent argues that despite its efforts, Appellant continued to make unacceptable and serious
9 errors. Respondent argues that it has met its burden of proving that the misconduct alleged in the
10 three disciplinary letters occurred.
11

12 Respondent argues that a reduction in pay was the appropriate sanction for the errors
13 Appellant made on June 19, 1997 and July 21, 1997. Respondent argues that a suspension was the
14 appropriate sanction for Appellant's failure to balance her cash drawer on May 8, 1998. Finally,
15 Respondent argues that although a seemingly insignificant mistake, Appellant's skipped receipt was
16 a serious matter considering Appellant's continued failure to improve her performance despite all of
17 Respondent's efforts to help her succeed.
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20 Respondent argues that it implemented progressively stiffer penalties for Appellant's
21 mistakes, but that dismissal was the only sanction it could take when Appellant's skipped receipt
22 error was discovered. Respondent argues that Appellant could not perform her job and failed to
23 show that she could improve her performance. Respondent argues that Appellant's dismissal was
24 warranted and asks the Board to deny Appellant's appeals.
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1 3.2 Appellant does not deny that she failed to balance her cash drawer on June 19, 1997, failed
2 to void a cash receipt on July 21, 1997, failed to balance her cash drawer on May 8, 1998 and failed
3 to notice a skipped cash receipt in her receipt book during the period of April 28, 1998 through May
4 15, 1998. However, Appellant argues that these were small and inadvertent errors and that she was
5 the only employee singled out for these types of mistakes when other employees made similar
6 errors. Appellant contends that she did attempt to call the office on May 8, but her call was
7 answered by the agency's automated answering service.
8

9
10 Appellant asserts that she is a long-term employee with a good work history until June 1997
11 when Mr. Moran became her supervisor and she came under heightened scrutiny. Appellant
12 contends that she did notify others of her mistakes when she caught them, including Nancy
13 Norberg, her lead worker, and her supervisor, Mr. Moran. Appellant asserts that it was impossible
14 to directly notify her supervisor of inadvertent mistakes that were discovered by others.
15

16
17 Appellant argues that Mr. Moran's memorandums confirm that her performance was
18 improving. Appellant asserts that after her third work plan expired, her performance continued to
19 improve and that the error for which she was dismissed occurred sometime between April 28, 1998
20 and May 15, 1998, that it was known by the appointing authority when he met with her to discuss
21 the allegations which resulted in her suspension, and that she was not given an opportunity to show
22 improvement. Appellant argues that the suspension and termination are not appropriate and asks
23 that she be reinstated.
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25 IV. CONCLUSIONS OF LAW 26

1 4.1 The Personnel Appeals Board has jurisdiction over the parties hereto and the subject matter
2 herein.

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4 4.2 In a hearing on appeal from a disciplinary action, Respondent has the burden of supporting
5 the charges upon which the action was initiated by proving by a preponderance of the credible
6 evidence that Appellant committed the offenses set forth in the disciplinary letter and that the
7 sanction was appropriate under the facts and circumstances. WAC 358-30-170; Baker v. Dep't of
8 Corrections, PAB No. D82-084 (1983).

9
10 4.3 Neglect of duty is established when it is shown that an employee has a duty to his or her
11 employer and that he or she failed to act in a manner consistent with that duty. McCurdy v. Dep't
12 of Social & Health Services, PAB No. D86-119 (1987).

13
14 4.4 Inefficiency is the utilization of time and resources in an unproductive manner, the
15 ineffective use of time and resources, the wasteful use of time, energy, or materials, or the lack of
16 effective operations as measured by a comparison of production with use of resources, using some
17 objective criteria. Anane v. Human Rights Commission, PAB No. D94-022 (1995), *appeal*
18 *dismissed*, 95-2-04019-2 (Thurston Co. Super. Ct. Jan. 10, 1997).

19
20 4.5 Insubordination is the refusal to comply with a lawful order or directive given by a superior
21 and is defined as not submitting to authority, willful disrespect, or disobedience. Countryman v.
22 Dep't of Social & Health Services, PAB No. D94-025 (1995).

23
24 4.6 Gross misconduct is flagrant misbehavior which adversely affects the agency's ability to
25 carry out its functions. Rainwater v. School for the Deaf, PAB No. D89-004 (1989).

1 4.7 Willful violation of published employing agency or institution or Personnel Resources
2 Board rules or regulations is established by facts showing the existence and publication of the rules
3 or regulations, Appellant's knowledge of the rules or regulations, and failure to comply with the
4 rules or regulations. Skaalheim v. Dep't of Social & Health Services, PAB No. D93-053 (1994).

5
6 **Reduction in Pay**

7 4.8 There is no dispute that Appellant failed to balance her cash drawer and failed to complete
8 the necessary transmittal form to ensure that the \$20 she received on June 19, 1997, was
9 appropriately accounted for and transmitted for deposit. Her failure resulted in a six-day delay
10 during which time funds in her cash drawer remained unaccounted for. Appellant also failed to
11 follow established procedure when she failed to appropriately void a UBI receipt on
12 July 21, 1997.
13

14
15 4.9 Appellant's failure to fulfill the duties and responsibilities of her position as a Tax Service
16 Representative constitutes a neglect of her duty and willful violation of Respondent's rules and
17 regulations regarding cash handling transactions. Furthermore, Appellant's failure to appropriately
18 account for funds interfered with the agency's ability to ensure the integrity of public funds and
19 constitutes gross misconduct. Respondent has met its burden of supporting the charges and proving
20 that a reduction in salary is appropriate under the facts and circumstances. Therefore, the
21 disciplinary sanction of a reduction in pay should be affirmed.
22

23
24 **Suspension**

25 4.10 Appellant was aware of the duties of her position which, in part, required her to balance her
26 cash drawer at the end of the day. Appellant was also aware of Mr. Moran's directives to inform

1 him of any issues which would interfere with her ability to perform the duties of her position.
2 However, based on the credible evidence and testimony, we conclude that Appellant made no
3 attempts to call into the office prior to or after 5 p.m. to contact Mr. Moran and advise him of her
4 inability to return to work. Appellant's failure to balance her cash drawer on May 8, 1998
5 constitutes a neglect of her duty, insubordination and willful violation of the agency's rules and
6 regulations regarding cash handling transactions and interfered with the department's ability to
7 ensure the integrity of public funds. Respondent has met its burden of supporting the charges and
8 proving that a three-day suspension is appropriate under the facts and circumstances. Therefore, the
9 disciplinary sanction of a three-day suspension should be affirmed.

11 **Dismissal**

12 4.11 There is no dispute that Appellant skipped a receipt sometime between April 28 and May
13 15, 1998. However, we disagree with Respondent's decision that Appellant's error warranted
14 termination based on Respondent's application of progressive discipline and Appellant's failure to
15 improve her work performance.

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18 4.12 By memo dated May 5, 1998, Mr. Moran advised Appellant that she had met the overall
19 work plan expectations, however, he still had some concerns regarding her cash handling duties.
20 Appellant was then suspended for the May 8 incident in which she failed to close out her cash
21 drawer. The August 8 letter notifying Appellant of her suspension warned that future incidents of
22 misconduct could lead to further discipline, including termination. Respondent ultimately
23 terminated Appellant by letter dated September 25 for an incident which occurred on some
24 undetermined date between April 28 and May 15 but which was known by the appointing authority
25 prior to the July 15 pre-disciplinary meeting.
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2 4.13 The merit system rules governing disciplinary actions (Chapter 356-34 WAC) permit
3 appointing authorities to impose sanctions including demotion, suspension, reduction in salary or
4 dismissal after giving notice of the specified charges to the employee in writing. Notice of
5 specified charges implies a complete disclosure to the employee of the currently known causes for
6 which the appointing authority intends to impose a formal disciplinary sanction. The appointing
7 authority knew that the agency's internal auditor discovered that a receipt was missing before he
8 held the pre-disciplinary meeting with Appellant on July 15 and imposed the three-day suspension.
9 It is contrary to the spirit of the merit system rules for the appointing authority to withhold all
10 known causes that can lead to disciplinary action and notify an employee of only a portion of the
11 charges and then use the remaining charge/charges to impose additional disciplinary action. In this
12 case, the additional charge should have been included with the charges supporting the suspension.
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15 4.14 In light of Appellant's demonstrated improvement while on the work plan and in
16 consideration of the sequence of the events leading to her dismissal, the skipped receipt during the
17 period of April 28 through May 15, 1998, is not additional or continuing misconduct that would
18 warrant termination of an 11 year employee. Appellant's termination so soon after her suspension
19 for an incident known to the appointing authority when he imposed the suspension denied
20 Appellant the opportunity to show improvement in her performance. Under the facts presented
21 here, Appellant's dismissal should be reversed.
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24 **V. ORDER**
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1 NOW, THEREFORE, IT IS HEREBY ORDERED that the appeals of Appellant's reduction in
2 salary, Case No. RED-97-0052, and her suspension, Case No. SUSP-98-0033 are denied, and

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4 IT IS FURTHER ORDERED that Appellant's appeal of her dismissal, Case No. DISM-98-0055 is
5 granted.

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7 DATED this _____ day of _____, 1999.

8
9 WASHINGTON STATE PERSONNEL APPEALS BOARD

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11 _____
12 Walter T. Hubbard, Chair

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14 _____
15 Gerald L. Morgen, Vice Chair
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